

House Study Bill 158

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to magistrate jurisdiction, specifying certain
2 traffic-related offenses as simple misdemeanors, making other
3 related changes to simple misdemeanor offenses, and providing
4 a penalty.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1855HC 83
7 jm/nh/5

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1 1 Section 1. Section 321.24, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 12. A person who violates this section
1 4 commits a simple misdemeanor.

1 5 Sec. 2. Section 321.95, Code 2009, is amended to read as
1 6 follows:

1 7 321.95 RIGHT OF INSPECTION.

1 8 1. Peace officers shall have the authority to inspect any
1 9 vehicle or component part in possession of a vehicle
1 10 rebuilder, vehicle salvager, used vehicle parts dealer or any
1 11 person licensed under chapter 322, or found upon the public
1 12 highway or in any public garage, enclosure or property in
1 13 which vehicles or component parts are kept for sale, storage,
1 14 hire or repair and for that purpose may enter any such public
1 15 garage, enclosure or property. Every vehicle rebuilder,
1 16 vehicle salvager, used vehicle parts dealer, or any person
1 17 licensed under chapter 322, or a person having used engines or
1 18 transmissions which are component parts for sale shall keep an
1 19 accurate and complete record of all vehicles demolished and of
1 20 such component parts purchased or received for resale as
1 21 component parts in the course of business. These records shall
1 22 contain the name and address of the person from whom each such
1 23 vehicle or component part was purchased or received and the
1 24 date when the purchase or receipt occurred or the junking
1 25 certificate if required for the vehicle. These records shall
1 26 be open for inspection by any peace officer at any time during
1 27 normal business hours. Records required by this section shall
1 28 be kept for at least three years after the transaction which
1 29 they record.

1 30 2. A person who violates this section commits a simple
1 31 misdemeanor.

1 32 Sec. 3. Section 321.96, Code 2009, is amended to read as
1 33 follows:

1 34 321.96 PROHIBITED PLATES == CERTIFICATES.

1 35 1. A person shall not display or cause or permit to be
2 1 displayed, or have in the person's possession, a vehicle
2 2 identification number or component part number except as
2 3 provided in this chapter, or a canceled, revoked, altered, or
2 4 fictitious registration number plates, registration receipt,
2 5 or certificate of title, as the same are respectively provided
2 6 for in this chapter.

2 7 2. A person who violates this section commits a simple
2 8 misdemeanor.

2 9 Sec. 4. Section 321.121, subsection 2, Code 2009, is
2 10 amended to read as follows:

2 11 ~~2. A person convicted of or found by audit to be using~~
2 12 ~~shall not use~~ a motor vehicle registered as a special truck
2 13 for any purpose other than permitted by section 321.1,
2 14 subsection 76, ~~shall, in addition to any other penalty imposed~~
2 15 ~~by law, be required to.~~ A person who violates this section
2 16 commits a simple misdemeanor. If the person is found by audit

2 17 to be using a motor vehicle for any purpose other than
2 18 permitted by section 321.1, subsection 76, the person may be
2 19 referred to the county attorney's office for prosecution. In
2 20 any event, in addition to any other penalty imposed by law, a
2 21 person convicted of or found by audit to be in violation of
2 22 this section shall pay regular annual motor vehicle

2 23 registration fees for such motor vehicle.
2 24 Sec. 5. Section 321.122, Code 2009, is amended by adding
2 25 the following new subsection:
2 26 NEW SUBSECTION. 4. A person who violates this section
2 27 commits a simple misdemeanor.
2 28 Sec. 6. Section 321.189, subsection 7, Code 2009, is
2 29 amended by adding the following new paragraph:
2 30 NEW PARAGRAPH. e. A person who violates this subsection
2 31 commits a simple misdemeanor.
2 32 Sec. 7. Section 321.208A, Code 2009, is amended to read as
2 33 follows:

2 34 321.208A OPERATION IN VIOLATION OF OUT-OF-SERVICE ORDER ==
2 35 PENALTIES.

3 1 1. A person required to hold a commercial driver's license
3 2 to operate a commercial motor vehicle shall not operate a
3 3 commercial motor vehicle on the highways of this state in
3 4 violation of an out-of-service order issued by a peace officer
3 5 for a violation of the out-of-service rules adopted by the
3 6 department. A driver who violates an out-of-service order
3 7 commits a simple misdemeanor and shall be subject to a fine of
3 8 not less than two thousand five hundred dollars upon
3 9 conviction for the first violation of an out-of-service order
3 10 and not less than five thousand dollars for a second or
3 11 subsequent violation of an out-of-service order in separate
3 12 incidents within a ten-year period.

3 13 2. An employer shall not knowingly allow, require, permit,
3 14 or authorize an employee to drive a commercial motor vehicle
3 15 in violation of an out-of-service order. An employer who
3 16 violates this subsection commits a simple misdemeanor and
3 17 shall be subject to a fine of not less than two thousand seven
3 18 hundred fifty dollars and not more than twenty-five thousand
3 19 dollars.

3 20 Sec. 8. Section 321.236, Code 2009, is amended by adding
3 21 the following new subsection:
3 22 NEW SUBSECTION. 15. A violation of a local ordinance,
3 23 rule, or regulation promulgated under the authority of this
3 24 section shall be prosecuted under the local ordinance, without
3 25 reference to this section.

3 26 Sec. 9. Section 321.285, Code 2009, is amended by adding
3 27 the following new unnumbered paragraph after subsection 7:
3 28 NEW UNNUMBERED PARAGRAPH. A person who violates this
3 29 section for excessive speed commits a simple misdemeanor
3 30 punishable as a scheduled violation under section 805.8A,
3 31 subsection 5, paragraph "a". A person who violates this
3 32 section for excessive speed as an operator of a school bus
3 33 commits a simple misdemeanor punishable as a scheduled
3 34 violation under section 805.8A, subsection 10, paragraph "a".
3 35 A person who violates any other provision of this section

4 1 commits a simple misdemeanor.
4 2 Sec. 10. NEW SECTION. 321.296 IMPLEMENT OF HUSBANDRY ==
4 3 SPEED.

4 4 1. A self-propelled implement of husbandry shall not
4 5 operate on a highway in excess of thirty-five miles per hour.
4 6 2. An operator who violates this section commits a simple
4 7 misdemeanor.

4 8 Sec. 11. Section 321.371, Code 2009, is amended to read as
4 9 follows:

4 10 321.371 CLEARING UP WRECKS.
4 11 1. Any person removing a wrecked or damaged vehicle from a
4 12 highway shall remove any glass or other injurious substance
4 13 dropped upon the highway from such vehicle.

4 14 2. A person who violates this section commits a simple
4 15 misdemeanor.

4 16 Sec. 12. Section 321.373, Code 2009, is amended by adding
4 17 the following new subsection:

4 18 NEW SUBSECTION. 8. A person who violates this section
4 19 commits a simple misdemeanor.

4 20 Sec. 13. Section 321.379, Code 2009, is amended to read as
4 21 follows:

4 22 321.379 VIOLATIONS.
4 23 ~~No~~ A school board, individual, or organization shall not
4 24 purchase, construct, or contract for use, to transport pupils
4 25 to or from school, any school bus which does not comply with
4 26 the minimum requirements of section 321.373 and any
4 27 individual, or any member or officer of such board or

4 28 organization who authorizes, the purchase, construction, or
4 29 contract for any such bus not complying with these minimum
4 30 requirements ~~shall be guilty of a misdemeanor punishable as~~
4 31 ~~provided in section 321.482 commits a simple misdemeanor.~~
4 32 Sec. 14. Section 321.406, Code 2009, is amended to read as
4 33 follows:
4 34 321.406 COWL LAMPS.
4 35 1. ~~Any~~ A motor vehicle ~~may be~~ shall not be equipped with
5 1 ~~not~~ more than two side cowl or fender lamps which shall, ~~Such~~
5 2 ~~lamps shall~~ emit only an amber or white light without glare.
5 3 2. ~~A person who violates this section commits a simple~~
5 4 ~~misdemeanor.~~
5 5 Sec. 15. Section 321.408, Code 2009, is amended to read as
5 6 follows:
5 7 321.408 BACK=UP LAMPS.
5 8 1. ~~Any~~ A motor vehicle may be equipped with a back-up lamp
5 9 either separately or in combination with another lamp; ~~except~~
5 10 ~~that no such.~~
5 11 2. ~~A~~ back-up lamp shall not be continuously lighted when
5 12 the motor vehicle is in forward motion.
5 13 3. ~~A person who violates this section commits a simple~~
5 14 ~~misdemeanor.~~
5 15 Sec. 16. Section 321.431, Code 2009, is amended by adding
5 16 the following new subsection:
5 17 NEW SUBSECTION. 6. A person who violates this section
5 18 commits a simple misdemeanor.
5 19 Sec. 17. Section 321.452, Code 2009, is amended to read as
5 20 follows:
5 21 321.452 SCOPE AND EFFECT.
5 22 1. ~~Except for offenses punishable under the provisions of~~
5 23 ~~section 321.463 it is a misdemeanor, punishable as provided in~~
5 24 ~~section 321.482, for any A person to shall not drive or move~~
5 25 ~~or for, and the owner to of such vehicle shall not cause or~~
5 26 knowingly permit to be driven or moved, on any highway any
5 27 vehicle or vehicles of a size or weight exceeding the
5 28 limitations stated in this chapter, and the maximum size and
5 29 weight of vehicles herein specified shall be lawful throughout
5 30 this state, and local authorities shall have no power or
5 31 authority to alter said limitations except as express
5 32 authority ~~may be~~ is granted in this chapter.
5 33 2. ~~A person who violates this section commits a simple~~
5 34 ~~misdemeanor.~~
5 35 Sec. 18. Section 321.463, subsection 12, Code 2009, is
6 1 amended to read as follows:
6 2 12. ~~A person who issues or executes, or causes shall not~~
6 3 ~~issue or execute, or cause~~ to be issued or executed, a bill of
6 4 lading, manifest, or shipping document of any kind which
6 5 states a false weight of the cargo set forth on such bill,
6 6 manifest, or document, which is less than the actual weight of
6 7 the cargo, ~~shall, upon conviction, be guilty of a simple~~
6 8 ~~misdemeanor.~~
6 9 Sec. 19. Section 321.463, Code 2009, is amended by adding
6 10 the following new subsection:
6 11 NEW SUBSECTION. 13. A person who violates this section
6 12 commits a simple misdemeanor.
6 13 Sec. 20. Section 321.467, Code 2009, is amended to read as
6 14 follows:
6 15 321.467 RETRACTABLE AXLES.
6 16 1. A vehicle which is a model year 1999 or later vehicle
6 17 shall not operate on a highway of this state with a
6 18 retractable axle unless the weight on the retractable axle can
6 19 only be adjusted by means of a manual device located on the
6 20 vehicle that is not accessible to the operator of the vehicle
6 21 during operation of the vehicle. However, the controls for
6 22 raising and lowering the retractable axle may be accessible to
6 23 the operator of the vehicle while the vehicle is in operation.
6 24 2. ~~A person who violates this section commits a simple~~
6 25 ~~misdemeanor.~~
6 26 Sec. 21. Section 321.484, Code 2009, is amended to read as
6 27 follows:
6 28 321.484 OFFENSES BY OWNERS.
6 29 1. It is unlawful for the owner, or any other person,
6 30 employing or otherwise directing the driver of any vehicle to
6 31 require or knowingly to permit the operation of such vehicle
6 32 upon a highway in any manner contrary to law.
6 33 ~~+~~ 2. The owner of a vehicle shall not be held
6 34 responsible for a violation of a provision regulating the
6 35 stopping, standing, or parking of a vehicle, whether the
7 1 provision is contained in this chapter, or chapter 321L, or an
7 2 ordinance or other regulation or rule, if the owner
7 3 establishes that at the time of the violation the vehicle was

7 4 in the custody of an identified person other than the owner
7 5 pursuant to a lease as defined in chapter 321F or pursuant to
7 6 a rental agreement as defined in section 516D.3. The
7 7 furnishing to the county attorney where the charge is pending
7 8 of a copy of the lease prescribed by section 321F.6 or rental
7 9 agreement that was in effect for the vehicle at the time of
7 10 the alleged violation shall be prima facie evidence that the
7 11 vehicle was in the custody of an identified person other than
7 12 the owner within the meaning of this subsection. Upon receipt
7 13 of such evidence, the appropriate authority shall dismiss as
7 14 against the owner of the vehicle any citation issued for a
7 15 violation within the meaning of this subsection that occurred
7 16 while the vehicle was in the custody of the identified person.
7 17 ~~2.~~ 3. If a peace officer as defined in section 801.4 has
7 18 reasonable cause to believe the driver of a motor vehicle has
7 19 violated section 321.261, 321.262, 321.264, 321.341, 321.342,
7 20 321.343, 321.344, or 321.372, the officer may request any
7 21 owner of the motor vehicle to supply information identifying
7 22 the driver. When requested, the owner of the vehicle shall
7 23 identify the driver to the best of the owner's ability.
7 24 However, the owner of the vehicle is not required to supply
7 25 identification information to the officer if the owner
7 26 believes the information is self-incriminating.

7 27 4. A person who violates this section commits a simple
7 28 misdemeanor.

7 29 Sec. 22. Section 321.487, Code 2009, is amended to read as
7 30 follows:

7 31 321.487 VIOLATION OF PROMISE TO APPEAR.

7 32 1. Any person willfully violating a citation to appear in
7 33 court given as provided in this chapter, is guilty of a simple
7 34 misdemeanor, punishable as provided in section 321.482
7 35 regardless of the disposition of the charge upon which the
8 1 person was cited. Venue shall be in the county where the
8 2 defendant was to appear or in the county where the person
8 3 resides.

8 4 2. An appearance in response to such citation may be made
8 5 either in person or by counsel.

8 6 Sec. 23. Section 321E.11, Code 2009, is amended to read as
8 7 follows:

8 8 321E.11 DAYLIGHT MOVEMENT ONLY == EXCEPTIONS == HOLIDAYS.

8 9 1. Movements by permit in accordance with this chapter
8 10 shall be permitted only during the hours from thirty minutes
8 11 prior to sunrise to thirty minutes following sunset unless the
8 12 issuing authority determines that the movement can be better
8 13 accomplished at another period of time because of traffic
8 14 volume conditions or the vehicle subject to the permit has an
8 15 overall length not to exceed one hundred feet, an overall
8 16 width not to exceed eleven feet, and an overall height not to
8 17 exceed fourteen feet, four inches, and the permit requires the
8 18 vehicle to operate only on those highways designated by the
8 19 department. Additional safety lighting and escorts may be
8 20 required for movement at night.

8 21 2. Except as provided in section 321.457, no movement by
8 22 permit shall be permitted on holidays, after twelve o'clock
8 23 noon on days preceding holidays and holiday weekends, or
8 24 special events when abnormally high traffic volumes can be
8 25 expected. Such restrictions shall not be applicable to urban
8 26 transit systems as defined in section 321.19, subsection 2.
8 27 For the purposes of this chapter, holidays shall include
8 28 Memorial Day, Independence Day, and Labor Day.

8 29 3. A person who violates this section commits a simple
8 30 misdemeanor.

8 31 Sec. 24. Section 481A.135, Code 2009, is amended by adding
8 32 the following new subsection:

8 33 NEW SUBSECTION. 5. An indictment or trial information for
8 34 a violation requiring an enhanced penalty under this section
8 35 shall specify the underlying violation committed by the
9 1 person.

9 2 Sec. 25. Section 602.6405, subsection 1, Code 2009, is
9 3 amended to read as follows:

9 4 1. Magistrates have jurisdiction of simple misdemeanors
9 5 regardless of the amount of the fine, including traffic and
9 6 ordinance violations, and preliminary hearings, search warrant
9 7 proceedings, county and municipal infractions, and small
9 8 claims. Magistrates have jurisdiction to determine the
9 9 disposition of livestock or another animal, as provided in
9 10 sections 717.5 and 717B.4, if the magistrate determines the
9 11 value of the livestock or animal is less than ten thousand
9 12 dollars. Magistrates have jurisdiction to exercise the powers
9 13 specified in sections 556F.2 and 556F.12, and to hear
9 14 complaints or preliminary informations, issue warrants, order

9 15 arrests, make commitments, and take bail. Magistrates have
9 16 jurisdiction over violations of section 123.49, subsection 2,
9 17 paragraph "h". Magistrates who are admitted to the practice
9 18 of law in this state have jurisdiction over all proceedings
9 19 for the involuntary commitment, treatment, or hospitalization
9 20 of individuals under chapters 125 and 229, except as otherwise
9 21 provided under section 229.6A; nonlawyer magistrates have
9 22 jurisdiction over emergency detention and hospitalization
9 23 proceedings under sections 125.91 and 229.22. Magistrates
9 24 have jurisdiction to conduct hearings authorized under section
9 25 809.4.

9 26 EXPLANATION

9 27 This bill relates to magistrate jurisdiction, specifies
9 28 certain traffic-related offenses as simple misdemeanors, and
9 29 makes other related changes to simple misdemeanor offenses.

9 30 Under the bill, the following traffic-related offenses
9 31 which are commonly referred to as nonscheduled violations are
9 32 specified as simple misdemeanors; Code sections 321.24
9 33 (issuance of registration or title); 321.95 (right of
9 34 inspection); 321.96 (prohibited plates); 321.121 (special
9 35 truck registration); 321.122 (truck and other vehicle fees);
10 1 321.189 (motorized bike violations); 321.208A (out-of-service
10 2 orders); 321.285 (speed restrictions); 321.371 (clearing up
10 3 wrecks); 321.373 (required school bus construction); 321.406
10 4 (cowl lamps); 321.408 (back-up lamps); 321.431 (adequacy of
10 5 brakes); 321.452 (scope and effect of size and weight
10 6 limitations); 321.463 (overweight trucks); 321.467
10 7 (retractable axels); 321.484 (offenses by owners of vehicles);
10 8 321.487 (promises to appear); and 321E.11 (daylight movement
10 9 only == exceptions).

10 10 The bill amends Code section 321.236 to specify that a
10 11 violation of a local ordinance, rule, or regulation
10 12 promulgated under the authority of Code section 321.236 shall
10 13 be prosecuted under the local ordinance, rule, or regulation
10 14 without reference to Code section 321.236.

10 15 The bill creates new Code section 321.296 which prohibits a
10 16 self-propelled implement of husbandry as defined in Code
10 17 section 321.1 from operating on a highway in excess of 35
10 18 miles per hour. A person who violates this provision commits
10 19 a simple misdemeanor.

10 20 The bill amends Code section 481A.135 and specifies that an
10 21 indictment or trial information for a violation requiring an
10 22 enhanced penalty related to wildlife conservation in Code
10 23 section 481A.135 shall specify the underlying violation
10 24 committed by the person.

10 25 The bill also amends Code section 602.6405 specifying a
10 26 magistrate has jurisdiction over any simple misdemeanor
10 27 regardless of the fine amount.

10 28 A simple misdemeanor is punishable by confinement for no
10 29 more than 30 days or a fine of at least \$65 but not more than
10 30 \$625 or by both.

10 31 LSB 1855HC 83

10 32 jm/nh/5